HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.Nos.14537, 16331 & 16481 of 2006

Date : 11-8-2006

W.P.No.14537/2006

Between:
Satya Sai Builders
Represented by its partner
Mr.B.Laxminarayana .. Petitioner

And

1. The Principal Secretary,
   Department of Municipal Administration
   And Urban Development,
   Government of A.P.,
   Secretariat, Hyderabad.
2. The Assistant City Planner,
   Circle V, M.C.H.,
   Khairtabad, Hyderabad.
3. The Municipal Corporation of
   Hyderabad, represented by its
   Commissioner, Tank Bund,
   Hyderabad. ..

Respondents

HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.Nos.14537, 16331 & 16481 of 2006

COMMON ORDER:

1. W.P.No.14537/2006 is filed by Satya Sai Builders, praying for a writ of mandamus by declaring the action of the respondents in threatening to demolish the utility shops and part of the building known as Satya Sai Apartments bearing M.C.H.No.7-1-621/A/1 and 2 situate at Srinivasa Nagar Colony, East Ameerpet, Hyderabad pending consideration for regularization as arbitrary, illegal and contrary to law besides being in violation of principles of natural justice and further to direct the respondents not to demolish any part of the building known as Satya Sai Apartments bearing M.C.H.No.7-1-621/A/1 and 2 situate at Srinivasa Nagar Colony, East Ameerpet, Hyderabad pending consideration for regularization and to pass such other suitable orders. This Writ Petition is filed in relation to the whole complex.

2. W.P.No.16331/2006 is filed for a writ of certiorari calling for records in proceedings No.TPS/C5/MCH/2006, dated 13-7-2006 issued by the 2nd respondent and to

quash the same as they are arbitrary, illegal and contrary to the provisions of Hyderabad Municipal Corporation Act and to pass such other suitable orders. It is stated that the writ petitioner in this Writ Petition is in occupation of one of the shops.

3. Likewise, yet another Writ Petition i.e., W.P.No.16481/2006 is filed stating that the petitioner is in possession of yet another shop in the same complex praying for a writ of certiorari by calling for records in proceedings No.TPS/CS/MCH/2006, dated 13-6-2006 issued by the 2nd respondent – Assistant City Planner and to quash the same as they are arbitrary, illegal and contrary to the provisions of Hyderabad Municipal Corporation Act and to pass such other suitable orders.

4. In W.P.Nos.14537/2006 and 16631/2006, notice before admission was ordered and status quo for a limited period was granted. In view of the same, W.P.No.16481/2006 is directed to be posted along with the other Writ Petitions aforesaid. Inasmuch as W.P.No.14537/2006 is a comprehensive Writ Petition, inclusive of the shops, the subject matter of the other two Writ Petitions, the facts in the said Writ Petition can be conveniently referred to for the purpose of disposal of all these Writ Petitions.

5. It is stated that the petitioners acquired a piece of land measuring about 2500 sq. yards bearing

M.C.H.No.7-1-621/A/1 and 2 in Sy.No.25 and 26 situate at Srinivasanagar colony, Ameerpet, Hyderabad from its owners Farook Ali Khan and his brother Mustafa Ali Khan in the year 1991. Subsequently on 18-3-1991 they applied for sanction of building plan to construct apartment by name Satya Sai Apartments. Though the sanction or refusal of the permission is required to be made within one month from the date of submission of the application as per the Hyderabad Municipal Corporation Act, the plans were sanctioned only on 19-8-1992 vide permit No.390/61. It is also stated that as per the sanctioned plan the width of the internal corridor between East and West Blocks was less than 10 feet. The prospective purchasers and others expressed that the internal corridor will be too small for the size of a complex consisting of 60 flats and the complex may not have good ventilation. Several other factual details also had been narrated. It is also stated that the Town Planning Officers and the then Additional Commissioner of the Corporation inspected the site and expressed full satisfaction about the proposed changes and also informed that the petitioner can continue with the work and the plans will be sanctioned immediately. Certain facts relating to the revised plans and other facts also had been narrated. Further letter No.309/TPS/90/125 dated 25-2-1997 also had been referred to and it is stated that they are pending with the Government till date. It is also stated that in compliance of

the Building Regularisation Scheme announced by the Government of Andhra Pradesh the petitioner paid Rs.2,90,000/- towards fee and requested for regularization of the revised plan as long back as on 28-8-1998 though there were no violations of the provisions of the Hyderabad Municipal Corporation Act. The copies of the same also are produced. It is also stated that G.O.Ms.No.419, Municipal Administration, dated 28-7-1998 for regularization of the buildings would govern the field. In such circumstances, the petitioner had approached this court for the prayer referred in W.P.No.14537/2006.

6. Similar facts had been narrated by the individual shop owners in the complex, the subject matter of the other Writ Petitions i.e., W.P.Nos.16331 & 16481 of 2006. In the facts and circumstances, the Writ Petitions be disposed of with the following directions :

7. It is needless to say that the respondents are bound to follow the provisions of Hyderabad Municipal Corporation Act before further proceeding with any demolition activity in relation to the building in question. It is also stated that the petitioner in W.P.No.14537/2006 had made some payment and requested for regularization of the building in question in terms of G.O.Ms.No.419, Municipal

Administration, dated 28-7-1998. In view of the facts and circumstances, the 3rd respondent in W.P.No.14537/2006 to entertain any objections which may be raised by the respective writ petitioners in all these Writ Petitions within a period of two weeks and to take appropriate decision in relation thereto and further to consider the request made by the petitioner in W.P.No.14537/2006 in terms of G.O.Ms.No.419, Municipal Administration, dated 28-7-1998 in accordance with law and till a decision is taken in this regard not to further proceed with any demolition activity.

8. It is stated that no individual notices were issued the petitioners in the other two Writ Petitions i.e., W.P.Nos.16331 and 16481 of 2006, the individual shop owners. It is needless to say that the writ petitioners, inasmuch as they are being permitted to file objections, no separate show cause notices as such need be issued, but their objections which may be filed to be considered in accordance with law. No costs.

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Justice P.S. Narayana

Date : 11-8-2006

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